



POSTAL REGULATORY COMMISSION

39 CFR part 3050

[Docket Nos. RM2023-1; RM2023-3; Order No. 6430]

Periodic Reporting

AGENCY: Postal Regulatory Commission.

ACTION: Order denying request and notice of proposed rulemaking.

SUMMARY: The Commission is acknowledging a recent filing requesting the Commission consider a motion for reconsideration or, in the alternative, petition regarding appropriate analytical principles for retiree health benefit costs. This document informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* February 8, 2023.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202-789-6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction

On December 9, 2022, the Commission issued Order No. 6363, which, in relevant part, identified how the accepted analytical principles would apply to the treatment of retiree health benefit normal costs in fiscal year (FY) 2022.¹ The Commission stated that should any party “desire the Commission rely on a different analytical principle with regard to the . . . normal cost payments . . . , [it] may petition the Commission for a change pursuant to 39 [CFR] part 3050.” Order No. 6363 at 11. On December 19, 2022, the National Postal Policy Council, the Alliance of Nonprofit Mailers, the American Catalog Mailers Association, the Association for Postal Commerce, the Major Mailers Association, the National Association of Presort Mailers, and N/MA – The News/Media Alliance (Mailers) filed a motion requesting reconsideration of Order No. 6363, or in the alternative, adoption of a petition to change the analytical principles applied to the FY 2022 retiree health benefit normal costs.² For the reasons discussed below, the Commission reaffirms the applicable findings in Order No. 6363 and provides notice of its intent to consider the Mailers’ petition to change the analytical principles applied to the FY 2022 retiree health benefit normal costs.

II. Background

¹ Docket No. RM2023-1, Order Granting Petition, In Part, for Reconsideration, December 9, 2022, at 10 (Order No. 6363). The Postal Service has separately appealed Order No. 6363. See *U.S. Postal Serv. v. Postal Regul. Comm’n*, No. 23-1003 (D.C. Cir. Jan. 6, 2023), ECF Document No. 1980503, at 1-3.

² Docket Nos. RM2023-1 and RM2023-3, Motion for Reconsideration or, in the Alternative, Petition to Initiate a Proceeding Regarding the Appropriate Analytical Principle for Retiree Health Benefit Normal Costs, December 19, 2022 (Mailers’ Motion and Petition). The Mailers initially designated their petition as Proposal Eight. In Order No. 6382, the Commission redesignated the petition as NPPC et al. Proposal One to distinguish it from proposals initiated by the Postal Service. Docket Nos. RM2023-1 and RM2023-3, Order Granting Motion for Extension of Time, December 21, 2022, at 2 n.2 (Order No. 6382). This change continues to be reflected in the caption for Docket No. RM2023-3 and is how the Commission will reference the Mailers’ petition in this proceeding.

In its annual periodic reports to the Commission, the Postal Service is permitted to use only accepted analytical principles. 39 CFR 3050.10. Accepted analytical principles refer to the analytical principles that were applied by the Commission in its most recent Annual Compliance Determination (ACD) unless different analytical principles subsequently were accepted by the Commission in a final rule. 39 CFR 3050.1(a).

Retiree health benefit normal costs represent the present value of the estimated retiree health benefits attributable to active employees' current year of service.³ Between FY 2017 and FY 2021, the Postal Service was required to pay retiree health benefit normal costs and amortization payments for the unfunded portion of the Postal Service Retiree Health Benefit Fund (PSRHBF) obligation as calculated by the Office of Personnel Management (OPM).⁴ On April 6, 2022, President Joseph Biden signed the Postal Service Reform Act (PSRA) into law.⁵ Section 102 of the PSRA repealed former 5 U.S.C. 8909a(d), thus eliminating the required annual retiree health benefit payments. Under the requirements of the PSRA, the Postal Service will instead be required to pay into the PSRHBF for current retiree health care costs equal to the excess of the cost of annual claims over premiums. The Postal Service will not, however, be required to make these payments until OPM computes whether "top up" payments are due (which will occur not later than June 30, 2026) or the PSRHBF is exhausted. Thus, no retiree health benefit payments were due in FY 2022.

³ Docket No. ACR2021, *Financial Analysis of United States Postal Service Financial Results and 10-K Statement*, May 18, 2022, at 7 n.9.

⁴ Former 5 U.S.C. 8909a(d)(3)(B). As explained in detail in Section IV.A., *infra*, these requirements replaced different retiree health benefit funding requirements that were in place between FY 2007 and FY 2016.

⁵ Postal Service Reform Act of 2022, Pub. L. 117-108, 136 Stat. 1127 (2022).

After several letters and filings concerning how the Postal Service should address the changed retiree health benefit payment requirements (in addition to other changes to costs) caused by the PSRA,⁶ the Commission issued Order No. 6363. In Order No. 6363, the Commission determined that the existing accepted analytical principles are to be applied in the Postal Service's FY 2022 Annual Compliance Report (ACR), which is filed by the Postal Service in late December of each calendar year.⁷ The Commission then identified how the accepted analytical principles would apply to the costs at issue, including the treatment of retiree health benefit normal costs, and described the process by which any party could petition for a change to the accepted analytical principles and receive a determination from the Commission prior to the FY 2022 ACR docket's conclusion and the issuance of the FY 2022 ACD in late March of 2023. Order No. 6363 at 10-11; 39 U.S.C. 3653(b).

With regard to the treatment of retiree health benefit normal costs, the Commission noted that the PSRA removed the requirement that the Postal Service make retiree health benefit payments in FY 2022. See Order No. 6363 at 10. The Commission explained that:

⁶ See Letter from Richard T. Cooper, Managing Counsel, Corporate and Postal Business Law to Erica A. Barker, Secretary and Chief Administrative Officer, August 12, 2022, available at <https://www.prc.gov/docs/122/122469/Ltr%20re%20PSRA%20Effects%20ACR%20CRA.pdf>; Letter from Erica A. Barker, Secretary and Chief Administrative Officer to Richard T. Cooper, Managing Counsel, Corporate and Postal Business Law, October 7, 2022, available at <https://www.prc.gov/docs/123/123096/Response%20Letter.pdf>; Docket No. RM2023-1, Petition for Reconsideration and Initiation of Proceeding, November 4, 2022; Letter to Erica A. Barker, Secretary and Chief Administrative Officer, October 13, 2022, styled Motion for Reconsideration of Response to the Postal Service's Proposed Changes to Accepted Analytical Principles, available at https://www.prc.gov/docs/123/123145/Motion%20for%20Reconsideration_PropChange_.pdf; Docket No. RM2023-1, Response of the United States Postal Service in Opposition to GCA Petition for Reconsideration and Initiation of Proceeding, November 10, 2022; Docket No. RM2023-1, Reply of Mailer Associations to Response of the United States Postal Service in Opposition to GCA Petition for Reconsideration and Initiation of Proceeding, November 21, 2022.

⁷ Order No. 6363 at 2; 39 U.S.C. 3652. See Docket No. ACR2022, United States Postal Service FY 2022 *Annual Compliance Report*, December 29, 2022.

Accepted analytical principles dictate the treatment of the costs incurred by the Postal Service, and do not require inclusion of costs that are not incurred. Applying the accepted principles to the costs incurred under the new requirements of [the] PSRA does not require the Commission to accept a change in analytical principles.

Id. The Commission concluded that “[a]s a result, under the accepted methodology, there are no amortization and normal costs to account for in the Postal Service’s financial reporting for FY 2022. Including such costs not incurred by the Postal Service would require a change in accepted methodology.”

Id.

The Commission stated that should any party “desire the Commission rely on a different analytical principle with regard to the amortization and normal cost payments (which the Postal Service does not incur in FY 2022 or beyond), [it] may petition the Commission for a change pursuant to 39 [CFR] part 3050.” *Id.* at 11. The Commission stated that for such a petition to be considered for purposes of the FY 2022 ACD, it must be filed no later than December 21, 2022.

Id. The Commission stated that review of any petitions will take place in new rulemaking dockets, rather than in Docket No. RM2023-1. *Id.*

III. The Mailers’ Motion and Petition and Responses

A. Mailers’ Motion and Petition

On December 19, 2022, the Mailers’ filed a motion for reconsideration of Order No. 6363, and in the alternative, requested that the Commission accept their petition and begin a proceeding to change the accepted analytical principles applying to FY 2022 retiree health benefit normal costs consistent with NPPC et al. Proposal One. Mailers’ Motion and Petition at 1.

The primary argument raised by the Mailers in favor of reconsideration is that the current accepted analytical principles dictate that FY 2022 retiree health benefit normal costs “should be treated as accrued in FY 2022 and distributed as

attributable or institutional in the same manner as they have been in every year since FY 2008.” *Id.* Thus, the Mailers request that the Commission reconsider Order No. 6363’s conclusion that excluding retiree health benefit normal costs from the annual Cost and Revenue Analysis Report (CRA) filed with the FY 2022 ACR is not a change in analytical principles. *Id.* at 2. They also request reconsideration of the decision “to impose the burden on mailers to petition the Commission for a change in analytical treatment, when it is the Postal Service, not the mailers, that is proposing [a change in analytical principles].” *Id.*

The Mailers assert that “[t]he normal costs at issue are the costs incurred this year for post-retirement health benefits for current employees” and that because employees are entitled to those benefits due to work performed in FY 2022, those benefits are earned in FY 2022. *Id.* at 2-3. The Mailers further assert that retiree health benefit normal costs have been accrued and attributed in the year they are earned since 2008. *Id.* at 3. To support this assertion, the Mailers state that the Postal Service uses accrual accounting and that a basic principle of accrual accounting is that costs accrue when incurred. *Id.* The Mailers state that this principle is the accepted analytical principle for normal costs “that the Commission and Postal Service have applied consistently in every year since 2008.” *Id.*

The Mailers explain that the accrued costs reflected in the Trial Balance form the basis of costs by cost segment and component, and that accrual in each segment in the Trial Balance matches the segment cost in the cost segments and components, which in turn form the basis of the CRA and ACR, critical documents for purposes of the ACD. *Id.* at 4. The Mailers note that the FY 2021 Cost Segment 18 summary description explains how the normal cost of retiree health benefits are attributed and assert that the Commission relied on this in the

FY 2021 ACD. *Id.* at 4-5. They state that “[a] failure to accrue and attribute [retiree health benefit] normal costs in FY 2022 would constitute a change in the distribution of normal costs among attributable and institutional costs” and that “[a]llowing the Postal Service to circumvent this process by categorically ‘omitting’ these costs from the Trial Balance would circumvent this institutional safeguard on the integrity of the cost models.” *Id.* at 5. The Mailers emphasize that the Commission’s regulations require that the Postal Service use accepted analytical principles in the ACR, that is, those applied by the Commission in the most recent ACD unless different analytical principles were accepted by the Commission in a final rule. *Id.* (citing 39 CFR 3050.1(a), .10). They conclude that the regulations thus require the Postal Service to accrue in FY 2022 retiree health benefit normal costs that were earned in FY 2022, which they assert is the established analytical principle. *Id.* at 6.

The Mailers further assert that the fact “[t]hat normal costs are accrued in this way was resolved in Docket No. RM2007-1, as the Commission implemented the Postal Accountability and Enhancement Act.” *Id.* The Mailers cite to the Postal Service’s comments in that proceeding, which discuss attributing normal costs differently than in accordance with payment schedules and attributing normal costs as they are earned. *Id.* at 6-8. The Mailers also assert that accruing normal costs in this way was also consistent with the former General Accounting Office and current Government Accountability Office (GAO)’s “longstanding view on this issue” and cite to documents from 1992 and 2002, in which the Postal Service was urged to adopt accrual accounting for retiree health benefit costs. *Id.* at 7-8. The Mailers conclude that this was the approach adopted by the Commission and applied “in every annual compliance review proceeding since FY 2008.” *Id.* at 8.

The Mailers state that “failing to accrue the [retiree health benefit] normal costs in the year that they are earned would have real world negative consequences,” the most important of which is violation of the principles of cost causation embodied in the Postal Accountability and Enhancement Act (PAEA).⁸ The Mailers assert that “[e]conomic costs are the foundation of postal cost accounting, and the economic costs of postal workers include [retiree health benefit] normal costs” and that omitting such costs would mean that costs do not reflect economic costs. Mailers’ Motion and Petition at 8-9. The Mailers argue that this would lead to inefficient rates, particularly for workshare discounts. *Id.* at 9. Specifically, the Mailers explain that “[o]mitting a portion of the direct and indirect labor costs from the calculation of avoided costs would unavoidably result in underestimates of costs avoidances, which in turn would lead to inefficiently priced workshare discounts” and could result in inaccurate findings that some workshare discounts exceed avoided costs and must be adjusted. *Id.* The Mailers assert that this harm could potentially lead to long-term distortions in workshare discounts. *Id.*

Because the Mailers claim that the accepted analytical principle “unquestionably accrues [retiree health benefit] normal costs as a cost in the year in which they are incurred,” they assert that it is the Postal Service, and not the Mailers, that wants to change the accepted analytical principle for FY 2022. *Id.* at 9-10. The Mailers assert that Order No. 6363 accepted an admission by the Postal Service that a change to an analytical principle was required but also “somehow simultaneously held that there is no change in the underlying analytical principle and that therefore *mailers* must initiate a proposed change.”

⁸ *Id.* See Postal Accountability and Enhancement Act, Pub. L. 109-435, 120 Stat. 3198 (2006).

Id. at 10 (emphasis in original). The Mailers assert that “[i]t is illogical and unreasonable both to accept a changed treatment and say that the principle has not changed.” *Id.* The Mailers state that the Postal Service has not requested a change in accepted analytical principle for the retiree health benefit normal costs, but because a change is being proposed in the Mailers’ view, the Postal Service should bear the burden of advocating for a change. *Id.* Thus, the Mailers allege that Order No. 6363 erred in requiring the Mailers, and not the Postal Service, to initiate a proceeding regarding the treatment of FY 2022 retiree health benefit normal costs. *Id.* at 10-11.

The Mailers also argue that the PSRA provides no basis for abandoning the accepted analytical principle that retiree health benefit normal costs are accrued when earned because the timing of funding is irrelevant to accrual accounting. *Id.* at 11. Thus, the Mailers assert that the Postal Service and Order No. 6363 incorrectly contend that the PSRA changed postal cost accounting because the legislation only amended how the retiree health benefits are funded. *Id.* The Mailers assert that while Section 102 of the PSRA altered how the benefits are funded, it did not eliminate the cost of retiree health benefit normal costs because those costs are incurred (and accrued) “daily as postal employees do their work, just as in past years.” *Id.* at 11-12. The Mailers further assert that “[n]othing in the PSRA changed the statutory definition of attributable costs or the statutory requirement that products cover their attributable costs based on reliably identified causal relationships.” *Id.* at 12.

The Mailers reiterate that the retiree health benefit normal costs have been accrued and attributed in a consistent manner for the past 14 years, including years when payments were reduced and deferred by Congress and years when the Postal Service defaulted on them. *Id.* at 13. They assert that

Order No. 6363 reverses this long-standing practice “even though the benefits are still being earned and the costs incurred in the very same way” and that “[c]osts that are incurred annually in the normal course of operation do not flip from accrued to non-accrued and back . . . depending on whether OPM deems an invoice necessary.” *Id.* They further assert that the analytical principles identified in Order No. 6363 are inconsistent with the treatment the retiree health benefit normal costs received in FY 2009 and FY 2011 when Congress reduced the payment amounts, but the retiree health benefit normal cost was calculated in the same way as other years. *Id.* at 13-14. The Mailers also assert that the Postal Service’s FY 2022 Form 10-K shows that the Postal Service accrued \$4.4 billion in FY 2022 retiree health benefit normal costs in its actuarial liability, which they claim contradicts the contention that there are no retiree health benefit normal costs to accrue and attribute. *Id.* at 15.

The Mailers argue, in the alternative, that if the Commission finds the current accepted analytical principles permit exclusion and non-attribution of retiree health benefit normal costs when there is no required current year payment, then the Commission should change the analytical principles. *Id.* at 16. The Mailers, thus, petition the Commission pursuant to 39 CFR 3050.11 to change the accepted analytical principles for retiree health benefit normal costs if the motion for reconsideration portion of the Mailers’ Motion and Petition is not granted. *Id.* The Mailers’ proposal (*i.e.*, NPPC et al. Proposal One) and the basis for the proposal are discussed in Section V.A., *infra*.

B. Responses to the Mailers' Motion and Petition

On January 4, 2023, the Postal Service and the Package Shippers Association (PSA) filed responses to the Mailers' Motion and Petition.⁹ PSA supports the Mailers' Motion and Petition, agreeing that FY 2022 retiree health benefit normal costs should be accrued and then attributed to products in the same proportions as direct labor costs and asserting that this is the same methodology that has been applied to these costs since 2006. PSA Response at 1. PSA acknowledges that the PSRA changed when the Postal Service makes payments for retiree health benefit costs but asserts that the PSRA did not "address cost accrual principles generally or the causality-based cost attribution requirements," which it believes necessitate that FY 2022 retiree health benefit normal costs be accrued and attributed. *Id.* at 1-2. Like the Mailers, PSA cites to the Postal Service's comments in Docket No. RM2007-1, which it asserts show that how retiree health benefit normal costs are incurred should not be linked to payment schedules and that such normal costs "have been accrued and attributed . . . in the year in which they were incurred since the enactment of the PAEA." *Id.* at 2. PSA also echoes the Mailers' assertion that the PSRA's changes are not a sufficient reason to change the established approach and similarly points to FY 2011 when payments were deferred but retiree health benefit normal costs still accrued as an example of the accepted methodology. *Id.* at 2-3. PSA further asserts that "[t]his approach of accruing and attributing [retiree health benefit] normal costs is the only approach that complies with the

⁹ Docket Nos. RM2023-1 and RM2023-3, Response of the United States Postal Service to Mailers' Motion for Reconsideration and Petition, January 4, 2023 (Postal Service Response); Docket Nos. RM2023-1 and RM2023-3, Comments of the Package Shippers Association, January 4, 2023 (PSA Response). In Order No. 6382, the Commission extended the deadline for responding to the Mailers' Motion and Petition to January 4, 2023. Order No. 6382 at 3. See Docket Nos. RM2023-1 and RM2023-3, Motion of the United States Postal Service for Leave to File Consolidated or Concurrent Responses to Mailers' December 19th Filing, December 20, 2022.

statutory causation-based costing requirements” as “the statute . . . requires that costs with a reliably identified causal relationship to a specific product be attributed to that product.” *Id.* at 3. PSA states that retiree health benefit normal costs have long been attributed to products, and that such costs in FY 2022 are not less caused by products than in prior years and therefore cannot be excluded from attribution. *Id.* at 3-4.

The Postal Service opposes both the request for reconsideration of Order No. 6363 and the alternative request to adopt NPPC et al. Proposal One. Postal Service Response at 1. With respect to the request for reconsideration, the Postal Service states that request is not justified under 39 CFR 3010.165 because the Commission committed no material errors of fact or law in identifying the accepted analytical principles in Order No. 6363 and the Mailers had adequate prior opportunity to submit arguments on this issue. *Id.* at 2. The Postal Service argues that the Commission should deny the request for consideration and proceed to the merits of resolving what analytical principles should apply in FY 2022 and future years with regard to retiree health benefit normal costs. *Id.* at 2-3. The Postal Service asserts that Order No. 6363 was correct in finding that the accepted methodology does not require the inclusion of costs that are not incurred by the Postal Service and further asserts that the Mailers’ approach has “an insurmountable impediment” because it seeks to attribute costs where the actual entry for that component is zero, and with zero normal costs recorded in FY 2022, “there are no costs to apportion between attributable and institutional.” *Id.* at 3-4. The Postal Service states that this is confirmed by language in the FY 2021 Cost Segment 18 summary description. *Id.* at 4. The Postal Service acknowledges that the Mailers “wish to dispute whether or not the entry . . . should be zero in FY 2022” but asserts that this

issue is properly addressed in an evaluation of NPPC et al. Proposal One rather than through reconsideration of Order No. 6363. *Id.*

The Postal Service contends that NPPC et al. Proposal One should be rejected on the merits. The Postal Service objects to the Mailers' contention that the PSRA should not have any effect on normal cost accruals and attribution in FY 2022 and argues that the Mailers' proposed approach runs afoul of Congressional intent. *Id.* at 5, 7. Specifically, the Postal Service argues that "[t]he PSRA changes in fact bear directly on how [retiree health benefit] costs must be treated" because the PSRA reversed key PAEA provisions relating to retiree health benefits. *Id.* at 7. The Postal Service explains that the PAEA required prefunding of future retiree health benefit normal costs and that the PSRA eliminated this requirement, switching back to the pre-PAEA pay-as-you-go approach to paying for these costs. *Id.* at 7-8. The Postal Service cites to the House Report accompanying the PSRA as affirming this. *Id.* at 8-9. The Postal Service emphasizes that "a cost at its essence consists of an amount someone is required to pay" and argues that the Commission should continue to recognize the limitations of a strictly "economic" approach to costing when "disparities between theoretical 'economic' costs and booked 'accounting' costs" exist." *Id.* at 9 (emphasis in original).

The Postal Service specifically takes issue with the Mailers' assertion that "[c]osts that are incurred annually in the normal course of operation do not flip from accrued to non-accrued and back . . . depending on whether OPM deems an invoice necessary." *Id.* at 10 (citing Mailers' Motion and Petition at 13). The Postal Service argues that the format in which OPM conveys payment information is not necessarily dispositive, but "[e]conomic' costs can indeed flip back and forth from accrued to non-accrued depending on whether Congress

through legislation deems payment to be required or not (which, in turn, is what will determine whether OPM issues an invoice or not).” *Id.* (emphasis in original). The Postal Service asserts that “[w]ith respect to [retiree health benefit] costs, such flipping has occurred several times in the past” and outlines the legislative history of varying payment requirements for retiree health benefits. *Id.* at 10-11. The Postal Service argues that “[e]ach of these changes directly affected cost accruals by virtue of changing the nature or scope of the obligations that Congress was imposing on the Postal Service, and the PSRA is no exception, regardless of how adamantly Mailers insist[] that it is.” *Id.* at 11. The Postal Service emphasizes that under the PSRA, it “is at this time under *no* type of obligation to make prefunding payments reflecting those normal costs” and that NPPC et al. Proposal One does not justify a change in the analytical principles to require that costs that are not incurred be included in either the financial or regulatory reporting. *Id.* (emphasis in original).

The Postal Service also argues that NPPC et al. Proposal One should be rejected because “Mailers fail to articulate exactly how their Proposal One would operate in any way that could possibly meet rational regulatory guidelines.” *Id.* at 12. The Postal Service states that while the result the Mailers hope to achieve is clear “how they would propose to get there is distinctly unclear” and “[t]o the extent that a potential pathway can be surmised, it has additional unacceptable shortcomings.” *Id.*

To support these arguments, the Postal Service first explains that steps it took in FY 2021 for accruing and attributing retiree health benefit normal costs, beginning with receiving an OPM invoice with a precise amount payable for FY 2021 retiree health benefit normal costs, reporting that amount in the Trial Balance and components 202 and 208, and then partially attributing component

202 costs to products. *Id.* at 12-13. The Postal Service states that NPPC et al. Proposal One seeks to ensure that the amounts are attributed in FY 2022, but given that no OPM invoice was issued, it is unclear from the Mailers' proposal what steps would be taken to effectuate that since no retiree health benefit normal costs were entered in the Postal Service's accounting records for FY 2022. *Id.* at 13-14. The Postal Service explains the issues it sees with inserting the costs at the Trial Balance step, including that that such an approach would be inconsistent with Generally Accepted Accounting Principles (GAAP) requirements and would cause issues in future years as "top up" payments are required. *Id.* at 14-15, n.5.

The Postal Service suggests that "it seems much more plausible" that Mailers are suggesting that the normal costs be inserted as a regulatory adjustment in a later step and that they are looking to use the accounting and regulatory process used prior to FY 2017, which the Postal Service views as a separate procedure from the one employed between FY 2017 and FY 2021. *Id.* at 15-19. However, the Postal Service takes issue with the Mailers' reference to negative adjustments made in FY 2009 and FY 2011. *Id.* at 19-20.

The Postal Service differentiates the FY 2009 and FY 2011 adjustments on the grounds that the legislative changes in FY 2009 and FY 2011 "were transitory adjustments to or deferrals of payment amounts previously specified by Congress" and not permanent changes to the Postal Service's payment obligations (unlike the PSRA, which "affirmatively did abandon the prefunding concept"). *Id.* The Postal Service also differentiates the FY 2009 and FY 2011 adjustments because making the same adjustments for FY 2022 would result in the attributable cost portion of the retiree health benefit normal costs exceeding the accrued retiree health benefit accounting costs when in FY 2009 and FY

2011 the attributed portion of the retiree health benefit normal costs did not exceed accrued total costs. *Id.* at 20-21. The Postal Service concludes that in FY 2022, where there were no accrued retiree health benefit costs because no retiree health benefit payments were required, attributing a portion of normal costs as advocated by the Mailers “would open the door for the complete untethering of regulatory costs from booked accounting costs.” *Id.* at 21.

C. Mailers’ Reply Comments

On January 11, 2023, the Mailers filed a motion for leave to file reply comments and concurrently submitted reply comments.¹⁰ The Commission received no objections to the motion and finds that no party is prejudiced by granting the motion, particularly in light of the additional opportunity to comment that will be provided as discussed in Section V.B., *infra*. Thus, the Motion for Reply Comments is granted.

In the reply comments, the Mailers reemphasize that the burden of proof should be on the Postal Service. Mailers’ Reply Comments at 1-2. The Mailers assert that nothing in the Postal Service Response supports excluding retiree health benefit normal costs from periodic reporting given that retiree health benefit normal costs are “earned benefits” and “part of the economic costs of handling mail.” *Id.* at 2. Mailers reiterate that the PSRA did not change the treatment of retiree health benefit costs, and that in their view, the PSRA “addressed solely the timing of payment, not the regulatory handling of the cost.” *Id.* The Mailers argue that the PSRA did not change the legal standard

¹⁰ Docket Nos. RM2023-1 and RM2023-3, Motion for Leave to File Reply Comments, January 11, 2023 (Motion for Reply Comments); Docket Nos. RM2023-1 and RM2023-3, Reply Comments Regarding the Appropriate Analytical Principle for Retiree Health Benefit Normal Costs, January 11, 2023 (Mailers’ Reply Comments).

governing cost attribution or direct the Postal Service to abandon systemwide accrual costing. *Id.* at 2-3.

The Mailers also assert that the “real world consequences” of failing to attribute retiree health benefit normal costs is demonstrated through the FY 2022 ACR, where “[t]he omission of more than \$2 billion of attributable costs makes material changes to workshare discount passthroughs compared to if those costs were included.” *Id.* at 3 (footnote omitted). The Mailers point to several workshare discounts being reported as having passthroughs exceeding 100 percent, despite those passthroughs previously being set at 100 percent in the most recent rate adjustment proceeding, which the Mailers assert “is very largely due to the omission of \$2.4 billion in attributable costs.” *Id.* at 4-5. The Mailers also note that workshare discounts with passthroughs below 85 percent were also affected as they “now appear to have larger passthroughs – again almost entirely due to the omission of more than \$2 billion in attributable retiree health benefit normal costs.” *Id.* at 5. The Mailers assert that this will result in inaccurate compliance findings with respect to workshare discounts, may harm the goals of pricing and operational efficiency, and will impede efforts to move workshare discounts with low passthroughs to more efficient levels. *Id.*

IV. Commission Analysis

As discussed in Section II., *supra*, the Commission’s regulations permit that the Postal Service use only accepted analytical principles in its annual periodic reports to the Commission. 39 CFR 3050.10. Accepted analytical principles refer to the analytical principles that were applied by the Commission in its most recent ACD unless a different analytical principle subsequently was accepted by the Commission in a final rule. 39 CFR 3050.1(a). The filings before the Commission contain arguments concerning both what the accepted

analytical principles related to the treatment of retiree health benefit normal costs *currently are* as well as arguments about whether and how the accepted analytical principles *should be changed*.

The primary question that needs to be resolved with respect to the request for reconsideration is what the accepted analytical principles for the treatment of retiree health benefit normal costs are *currently*. Thus, this section elaborates on Order No. 6363's explanation and application of the current accepted analytical principles and addresses the arguments raised concerning what the accepted analytical principles are currently. Arguments concerning whether and how the accepted analytical principles should be changed will be addressed when the Commission considers the merits of NPPC et al. Proposal One in a future order after receiving further comment on NPPC et al. Proposal One. See Sections IV.C., V., *infra*.

Order No. 6363 found that the current accepted analytical principles do not require the Postal Service to include costs not incurred (such as retiree health benefit normal costs in FY 2022) in its annual periodic reports to the Commission and that "[i]ncluding such costs not incurred by the Postal Service would require a change in accepted methodology." Order No. 6363 at 10. The Mailers disagree and argue that the current accepted analytical principles require that FY 2022 retiree health benefit normal costs "be treated as accrued in FY 2022 and distributed as attributed or institutional in the same manner as they have been in every year since FY 2008." Mailers' Motion and Petition at 1.

A. The Applicable Accepted Analytical Principles

Between FY 2007 and FY 2016, the retiree health benefit expenses due and payable by the Postal Service were employer premiums and mandated

statutory prefunding payments.¹¹ OPM was required to annually estimate the balance in the PSRHBF taking into account retiree health benefit normal costs,¹² which are the economic costs of the estimated future retiree health benefits earned during the year by current employees. Normal costs were included in the calculation of the PSRHBF balance and reported on the Postal Service's Forms 10-K¹³ but not assessed or required to be paid by the Postal Service. Thus, during that period, the only retiree health benefit costs due and payable were the premiums and mandated statutory prefunding payments, notwithstanding the separate calculation of retiree health benefit normal costs by OPM to fulfill the reporting requirements of former 5 U.S.C. 8909a(d)(1) and 39 U.S.C. 3654(b)(2).¹⁴

Between FY 2017 and FY 2021, the retiree health benefit expenses due and payable by the Postal Service changed. The Postal Service was no longer required to pay the employer premiums and mandated statutory prefunding requirements. The Postal Service was instead required to pay retiree health benefit normal costs and to make amortization payments for the unfunded portion of the PSRHBF obligation. Former 5 U.S.C. 8909a(d)(3)(B).

¹¹ 5 U.S.C. 8906(g)(2)(A); former 5 U.S.C. 8909a(d)(3)(A).

¹² Former 5 U.S.C. 8909a(d)(1) stated "[n]ot later than June 30, 2007, and by June 30 of each succeeding year, [OPM] shall compute the net present value of the future payments required under section 8906(g)(2)(A) and attributable to the service of Postal Service employees during the most recently ended fiscal year."

¹³ See 39 U.S.C. 3654(b)(1).

¹⁴ 39 U.S.C. 3654(b)(1)(C) in turn requires that the Postal Service report on its Forms 10-K "components of net periodic costs." 39 U.S.C. 3654(b)(1)(C). The reporting requirements of 39 U.S.C. 3654(b) remain in effect. The Mailers argue that the fact that the Postal Service's FY 2022 Form 10-K shows retiree health benefit normal costs illustrates that retiree health benefits accrued in FY 2022. Mailers' Motion and Petition at 15. However, the reason the FY 2022 Form 10-K shows retiree health benefit normal costs is solely because it is required by 39 U.S.C. 3654(b)(1)(C). The normal costs presented are not included in expenses, nor do they impact the Postal Service's balance sheet.

To address the PAEA's requirements, the Postal Service and the Commission developed the analytical principle that has been applied in each fiscal year from FY 2007 to FY 2021. It allows for the attribution of retiree health benefit normal costs, which have been attributed by applying the estimated labor volume variabilities to the retiree health benefit normal costs in the same proportions as direct labor costs.¹⁵ Thus, under this methodology, the attributable portion of normal costs have been calculated and distributed to specific products since FY 2007. It is this analytical principle that the Mailers focus on and assert is the sole methodology applying to the treatment of retiree health benefit normal costs.

However, as explained further below, the Commission's adoption of this analytical principle regarding the attribution of retiree health benefit normal costs in response to the PAEA did not supersede a separate longstanding analytical principle regarding the scope of postal costs and resulting limits on the pool of costs that may be attributable to products.

This relevant analytical principle relates to the concepts of "economic costs" and "accounting costs." Accounting costs refer to booked costs or the actual amounts incurred in accordance with existing authoritative accounting literature by the Postal Service. As explained above, between FY 2007 and FY 2016, these were the employer premiums and mandated statutory prefunding payments. Between FY 2017 and FY 2021, these were the amortization payments and retiree health benefit normal cost payments. In this case, economic costs refer to the retiree health benefit normal costs (even in years

¹⁵ See Docket No. ACR2007, Library Reference USPS-FY07-2 – FY 2007 Cost Segments and Components Report (Hard copy & Excel), December 28, 2007, Word document "FY07-2.Supplement.Health.Benefit.Costs.doc," at 4.

when there was not an accounting cost for the normal costs). Also included in economic costs were costs for the Civil Service Retirement System (CSRS) pensions between FY 2007 and FY 2016.¹⁶ Economic costs include costs for benefits as benefits are earned regardless of whether an actual payment is due for the costs (and thus regardless of whether the economic costs are also accounting costs). The longstanding analytical principle limits the extent to which economic costs can be attributed to the total amount of booked or accounting costs.¹⁷ As a result, total accounting costs serve as a ceiling that attributed economic costs cannot exceed.

The Mailers and PSA place significant weight on Postal Service's comments in Docket No. RM2007-1, which they allege make clear that retiree health benefit normal costs were expected to be considered "economic costs"

¹⁶ *Id.* at 4-5. The PAEA suspended the Postal Service's CSRS contributions after FY 2016.

¹⁷ Even prior to the PAEA, the Postal Service and the Commission used accounting costs as the foundation for assigning costs to "subclasses," which in turn were used as a basis for rate setting. As the Commission explained in a summary of the process generally used,

The process that produces the estimates in the CRA takes dollars from hundreds of subaccounts in the Postal Service's Books of Account and assigns them to one of hundreds of 'functional' cost components. (Functional costs are viewed as economic costs). Costs in the various functional components are analyzed to see how they vary with mail volume. The volume variable part is then distributed to subclasses according to piece counts or other 'distribution keys' that imply subclass causation. The Postal Service's estimates of the costs and revenues generated by each subclass of mail are derived from the intricate rules that it uses to convert its accounting costs to functional costs, apply variability percentages to functional costs, and distribute the variable portion to subclasses.

Docket No. RM2003-3, Final Rule on Periodic Reporting Requirement, November 3, 2003, at 21-22 (Order No. 1386). When the PAEA was enacted and the Commission put new periodic reporting requirements in place, the Commission generally left this pre-PAEA reporting structure in place with that structure forming the basis of the analytical principles applied after the PAEA's enactment. See Docket No. RM2008-4, Notice of Final Rule Prescribing Form and Content of Periodic Reports, April 16, 2009, at 2 (Order No. 203) (stating that "[t]he Postal Service commends the rules for leaving the existing financial reporting structure essentially intact while adapting it from a subclass-based format to a product-based format. It notes that the fundamental building blocks of cost reporting will remain the same, separating accrued costs into segments, applying variability studies to form pools of attributable costs, and using data collection systems to distribute those pools to products, as summarized in the Cost and Revenue Analysis (CRA) Report and the Cost Segments and Components (CSC) Report.").

that would be attributed as they were earned.¹⁸ The Mailers assert that the Commission “agreed” with the Postal Service’s approach and that the attribution of these costs was resolved in Docket No. RM2007-1. Mailers’ Motion and Petition at 6, 8. The Mailers and PSA are correct that the Postal Service’s comments reflect the analytical principle that retiree health benefit normal costs would be attributed to products. However, the Mailers and PSA ignore that the Postal Service’s comments and the approach adopted by the Commission also included the critical limiting principle that the extent to which these economic costs can be attributed is capped at the total amount of accounting costs and focus solely on the principle related to attributing retiree health benefit normal costs in their selective emphasis of the Postal Service’s comments. In the referenced comments, the Postal Service emphasized the need to apply the limiting principle to retiree health benefit normal costs, stating that:

[I]t will be necessary to reconcile the economic and accounting costs reported in the Postal Service statements, with the primary concern being that the attributed ‘economic’ costs not exceed the accounting costs. This can be addressed by setting the accounting costs as a ceiling that the attributed costs may not exceed.

Docket No. RM2007-1 Postal Service Comments at 30. It is these two principles together that determine the extent to which economic costs (e.g., retiree health benefit normal costs) are attributed to products.

Another fundamental analytical principle is that the Postal Service’s accounting systems record the costs that accrue to the Postal Service each fiscal

¹⁸ Mailers’ Motion and Petition at 6-8 (citing Docket No. RM2007-1, Initial Comments of the United States Postal Service on the Second Advance Notice of Proposed Rulemaking, June 18, 2007, at 29, 30 (Docket No. RM2007-1 Postal Service Comments)); PSA Response at 2 (citing Docket No. RM2007-1 Postal Service Comments at 29). The Mailers also place emphasis on GAO statements on postal accounting; however, the Mailers do not provide any evidence of GAO’s statements resulting in the adoption of a particular analytical principle or otherwise influencing the accepted analytical principles applied by the Commission. Mailers’ Motion and Petition at 7-8.

year (*i.e.*, the accounting costs). See n.17, *supra* and n.22, *infra*. While accounting rules incorporate elements that mirror concepts of economic costing (*e.g.*, accrual accounting recognizes costs and revenues when incurred, even if payment occurs at a different time), accounting costs do not always align with economic costs.¹⁹

Attributable costs are statutorily defined as “the direct and indirect postal costs attributable to . . . product[s] through reliably identified causal relationships.” 39 U.S.C. 3631(b). Economic cost analysis is relevant to the determination of attributable costs in some circumstances because it can identify and measure costs with a causal relationship to a product or group of products (as it has in the case of retiree health benefit normal costs). However, because attributable costs are a subset of total postal costs, they cannot exceed the corresponding total accounting costs, which define and measure the accrued costs of the Postal Service each fiscal year.

In each year since FY 2007, the attributable portion of the economic costs were less than the total accounting costs. This allowed the analytical principle regarding the attribution of retiree health benefit normal costs to be applied without contravening the additional limiting principle that attributable costs cannot be greater than accounting costs. The principle was applied so that the attributable portion of economic costs were classified as attributable costs and the remainder of the accounting costs were classified as institutional costs.

In FY 2022, a different situation arose because accounting costs for retiree health benefits were zero in FY 2022 due to the PSRA. The FY 2022 retiree health benefit normal costs were accrued on the Trial Balance from

¹⁹ For example, accounting depreciation schedules may not align with the economic depreciation of certain capital assets.

October 2021 (the start of FY 2022) through March 2022 (the last month before the PSRA took effect) because during that period, the Postal Service was expected to be obligated to pay the retiree health benefit normal costs pursuant to the not-yet-repealed provisions of the PAEA. Then the accrual was reversed pursuant to Section 102(c)(1) of the PSRA as shown in Table I.²⁰

²⁰ Section 102(c)(1) of the PSRA repealed payments "required from the Postal Service under section 8909a of title 5, United States Code, as in effect on the day before the date of enactment of this Act that remains unpaid as of such date of enactment." Postal Service Reform Act of 2022, Pub. L. 117-108, 136 Stat. 1127 (2022).

Table I
FY 2022 Accrual of Retiree Health Benefits Normal Costs
National Trial Balance

Effective Account (8 Digits)		Month Beginning Balance	Month Activity	Prior Period Adjustment	YTD Balance
51204.000	RETIREE HEALTH BENEFIT - NORMAL COST	\$0.00	\$358,333,333.00	\$0.00	\$358,333,333.00
51204.000	RETIREE HEALTH BENEFIT - NORMAL COST	\$358,333,333.00	\$358,333,333.00	\$0.00	\$716,666,666.00
51204.000	RETIREE HEALTH BENEFIT - NORMAL COST	\$716,666,666.00	\$358,333,333.00	\$0.00	\$1,074,999,999.00
51204.000	RETIREE HEALTH BENEFIT - NORMAL COST	\$1,074,999,999.00	\$358,333,333.00	\$0.00	\$1,433,333,332.00
51204.000	RETIREE HEALTH BENEFIT - NORMAL COST	\$1,433,333,332.00	\$358,333,333.00	\$0.00	\$1,791,666,665.00
51204.000	RETIREE HEALTH BENEFIT - NORMAL COST	\$1,791,666,665.00	\$358,333,333.00	\$0.00	\$2,149,999,998.00
51204.000	RETIREE HEALTH BENEFIT - NORMAL COST	\$2,149,999,998.00	(\$2,149,999,998.00)	\$0.00	\$0.00

Source: Postal Service National Trial Balance October 2021, Excel file "NTB_Public_Oct2021_FY22.xlsx," tab "1 National Trial Balance," cells A through F1450, November 19, 2021; Postal Service National Trial Balance November 2021, Excel file "National Trial Balance_Redacted_November 2021.xlsx," tab "1 National Trial Balance," cells A through F1464, December 17, 2021; Postal Service National Trial Balance December 2021, Excel file "National Trial Balance-Redacted, December, 2022 (FY 2022).xlsx," tab "1 National Trial Balance," cells A through F1485, February 1, 2022; Postal Service National Trial Balance January 2022, Excel file "National Trial Balance-January2022_Redacted.xlsx," tab "1 National Trial Balance," cells A through F1503, February 28, 2022; Postal Service National Trial Balance February 2022, Excel file "National Trial Balance-Redacted_February2022_FY2022.xlsx," tab "1 National Trial Balance," cells A through F1510, March 21, 2022; Postal Service National Trial Balance March 2022, Excel file "National Trial Balance-Redacted_March-FY22.xlsx," tab "1 National Trial Balance," cells A through F1515, May 5, 2022; Postal Service National Trial Balance April 2022, Excel file "National Trial Balance_Redacted_April 2022_FY 2022.xlsx," tab "1 National Trial Balance," cells A through F1516, May 24, 2022.

The accepted analytical principle requires that total accounting costs serve as the ceiling for attributed economic costs. As shown in Table I, in FY 2022, the total accounting costs were accrued in accordance with the provisions of the PAEA and then retroactively reversed according to the provisions of the PSRA.²¹ Due to the PSRA, there are no retiree health benefit costs incurred by the Postal Service in FY 2022, and thus the accounting costs in FY 2022 are zero.²² With no accounting costs in FY 2022 and that serving as a ceiling for the amount of economic costs that can be attributed, the amount of economic costs (*i.e.*, retiree health benefit normal costs) that can be attributed in FY 2022 is also zero.

This is not to say that the economic costs of retiree health benefits do not exist in FY 2022. As discussed above, economic costs include costs for benefits as benefits are earned, and retiree health benefit normal costs were earned by employees in FY 2022. However, as also discussed above, it is the Postal Service's accounting systems that record the costs that the Postal Service

²¹ OPM's FY 2022 Agency Financial Report affirms this reversal. See U.S. Office of Personnel Management, Agency Financial Report, Fiscal Year 2022, November 2022, at 69, available at <https://www.opm.gov/about-us/budget-performance/performance/2022-agency-financial-report.pdf>, (stating "[t]he Postal Service Reform Act of 2022, Pub. L. 117-108, changes the method in which required payments into the PSRHBF are calculated, and cancelled the payments due from Postal Service under Section 8909a. Pursuant to Pub. L. 117-108, OPM wrote off the \$57 billion receivables due from the Postal Service to the PSRHB in FY 2022. Additionally, FY 2022 accrued Postal Service receivables related to PSRHBF were reversed.").

²² As stated above, the Postal Service's accounting systems record the costs that accrue to the Postal Service each fiscal year and those costs flow through to the CRA and Cost Segment and Component Reports (CSCs). See n.17, *supra*. The Mailers acknowledge this in the Mailers' Motion and Petition, stating that: [A]ccrued costs as reflected in the trial balance (submitted in each ACR and therefore an analytical principle) form the basis of costs by cost segments and components. The accrual in each segment in the trial balance matches exactly the segment cost in the cost segments and components (CSCs). This information forms the basis of the CRA and ACR upon which the Commission bases its annual compliance determinations. Mailers' Motion and Petition at 4. Despite this understanding, the Mailers state that applying the FY 2021 Cost Segment 18 summary description in FY 2022 necessitates accruing retiree health benefit normal costs and attributing them. *Id.* at 5. As the Postal Service explains, applying the FY 2021 methodology as the Mailers propose in FY 2022 results in "no costs to apportion between attributable and institutional" because as the FY 2021 Cost Segment 18 summary description makes clear, the actual entry in the component from which the costs are derived is zero. Postal Service Response at 4. See Docket No. ACR2022, Response of the United States Postal Service in Opposition to Mailers' Motion Seeking Information Request, January 19, 2023, at 4-5.

accrues each fiscal year, and because attributable costs are a subset of total postal costs, they cannot exceed the corresponding total accounting costs as recorded by the Postal Service's accounting systems. Given that accounting costs set the limit on the economic costs that can be attributed and no retiree health benefit accounting costs accrued in FY 2022, Order No. 6363 correctly stated that "under the accepted methodology, there are no . . . normal costs to account for in the Postal Service's financial reporting for FY 2022" and that "[i]ncluding such costs not incurred by the Postal Service would require a change in accepted methodology." Order No. 6363 at 10.

Table II is an excerpt from the CSCs annually filed by the Postal Service as part of its ACR. It presents Component 208 "Retiree Health Benefits" appearing in Cost Segment 18 in the CSCs for FY 2008 through FY 2021. The "Total Cost" column reflects the total accounting costs for each fiscal year. The first and second columns reflect the total volume variable and product specific (*i.e.*, attributed economic) costs, and total "Other" costs, respectively. The table reflects that in each fiscal year the total postal costs accounted for (*i.e.*, the sum of attributed economic costs and "Other" costs) equals total accounting costs.

Table II
Cost Segment and Component Report
Cost Segment 18 Component Number 208

Fiscal Year	TOT VOL VAR & PROD SPEC	OTHER COSTS	TOTAL COSTS
2008	2,893,912	4,512,671	7,406,583
2009	2,508,684	881,649	3,390,333
2010	2,405,455	5,341,956	7,747,411
2011	2,208,733	231,970	2,440,704
2012	2,025,233	11,703,848	13,729,081
2013	1,870,005	6,579,793	8,449,798
2014	1,772,889	6,912,530	8,685,419
2015	1,870,872	6,940,267	8,811,140
2016	1,775,528	7,329,175	9,104,702
2017	1,844,997	2,415,224	4,260,221
2018	2,051,538	2,429,166	4,480,704
2019	2,125,932	2,438,478	4,564,409
2020	2,150,070	2,509,587	4,659,658
2021	2,345,438	2,764,664	5,110,102

Numbers may not add across due to rounding.

Source: Docket No. ACR2008, Library Reference USPS-FY08-2, Excel file "FY08PubSeg&CompRpt.xlsx," tab "CS18," cells U58, U59, U60, December 29, 2008; Docket No. ACR2009, Library Reference USPS-FY09-2, Excel file "FY09 Public CS&C Rpt.xlsx," tab "CS18," cells U59, U60, U61, December 29, 2009; Docket No. ACR2010, Library Reference USPS-FY10-2, Excel file "FY10 Public CS&C Rpt.xlsx," tab "CS18," cells U60, U61, U62, December 29, 2010; Docket No. ACR2011, Library Reference USPS-FY11-2, Excel file "FY11Public CS&CRpt.xlsx," tab "CS18," cells U60, U61, U62, December 29, 2011; Docket No. ACR2012, Library Reference USPS-FY12-2, Excel file "FY12.Public CS&CRpt.xlsx," tab "CS18," cells U60, U61, U62, December 28, 2012; Docket No. ACR2013, Library Reference USPS-FY13-2, Excel file "FY13.Public CS&CRpt.Revised.xlsx," tab "CS18," cells U61, U62, U63, December 27, 2013; Docket No. ACR2014, Library Reference USPS-FY14-2, Excel file "FY14.2.Public Cost Segs and Comp.xlsx," tab "CS18," cells U61, U62, U63, December 29, 2014; Docket No. ACR2015, Library Reference USPS-FY15-2, Excel file "FY15.Public Cost Segs and Comps.xlsx," tab "CS18," cells U59, U60, U61, December 29, 2015; Docket No. ACR2016, Library Reference USPS-FY16-2, Excel file "FY16Public Cost Segs and Comps.xlsx," tab "CS18," cells AC59, AC60, AC61, December 29, 2016; Docket No. ACR2017, Library Reference USPS-FY17-2, Excel file "FY17Public Cost Segs and Comps.xlsx," tab "CS18," cells AE59, AE60, AE61, December 29, 2017; Docket No. ACR2018, Library Reference USPS-FY18-2, Excel file "FY18Public Cost Segs and Comps.xlsx," tab "CS18," cells AE58, AE59, AE60, December 29, 2018; Docket No. ACR2019, Library Reference USPS-FY19-2, Excel file "FY19Public Cost Segs and Comps.xlsx," tab "CS18," cells AE58, AE59, AE60, December 27, 2019; Docket No. ACR2020, Library Reference USPS-FY20-2, Excel file "FY20Public Cost Segs and Comps.xlsx," tab "CS18," cells AE58, AE59, AE60, December 29, 2020; Docket No. ACR2021, Library Reference USPS-FY21-2, Excel file "FY21Public Cost Segs and Comps.xlsx," tab "CS18," cells AE58, AE59, AE60, December 29, 2021.

The Mailers and PSA point to FY 2009 and FY 2011 as supportive of their proposed approach because during those years Congress reduced or deferred retiree health benefit funding requirements, but retiree health benefit normal

costs were still attributed to products. See Mailers' Motion and Petition at 13-14; PSA Response at 2-3. However, as shown in Table II, the Postal Service and the Commission have consistently applied the same analytical principle in all fiscal years. In FY 2009, the mandated statutory prefunding payment was retroactively reduced by statute, and in FY 2011, a scheduled payment was deferred to the following fiscal year.²³ This caused, in both years, the total economic costs to exceed accounting costs, but the attributable portion of the economic costs were less than total accounting costs in those years as in all other years. See Table II, *supra*. The analytical principle setting accounting costs as the ceiling for attributed economic costs was correctly applied in each year because the attributable economic costs did not exceed total accounting costs despite the changes by Congress to the required payments in FY 2009 and FY 2011.

B. The Process to Change Accepted Analytical Principles

The Mailers request reconsideration of the requirement that they petition for a change in the accepted analytical principles because they assert that it is the Postal Service, and not the Mailers, that wants to change the accepted analytical principles for FY 2022 and thus should bear the burden of advocating for the change. Mailers' Motion and Petition at 9-10. They further assert that that Order No. 6363 was contradictory in finding and accepting a change in analytical principles and saying the principles were unchanged. *Id.* at 10.

As a preliminary matter, the Commission notes that the Mailers appear to misread Order No. 6363. Order No. 6363's primary objectives were to identify the current accepted analytical principles applying to the costs at issue (including

²³ Continuing Appropriations Resolution, 2010, Pub. L. 111-68, 123 Stat. 2023 (2009); Continuing Appropriations Act, 2012, Pub. L. 112-33, 125 Stat. 363 (2011).

retiree health benefit normal costs), find that those accepted analytical principles were the ones to be applied for purposes of the FY 2022 ACR, and delineate a process for proposing changes to those analytical principles. Order No. 6363 at 2, 10-11. Order No. 6363 found that the current accepted analytical principles applying to the retiree health benefit normal costs do “not require inclusion of costs that are not incurred” and that “under the accepted methodology, there are no . . . normal costs to account for in the Postal Service’s financial reporting for FY 2022.” *Id.* at 10. Thus, Order No. 6363 concluded that “[i]ncluding such costs not incurred by the Postal Service would require a change in accepted methodology.” *Id.* Because the Commission found with respect to retiree health benefit normal costs that the accepted analytical principles reflected the approach advocated by the Postal Service, and not the Mailers, the Commission further stated that “should the Mailers desire the Commission rely on a different analytical principle with regard to the . . . normal cost payments (which the Postal Service does not incur in FY 2022 or beyond), Mailers may petition the Commission for a change pursuant to 39 [CFR] part 3050.” *Id.* at 11.

The application of the analytical principles described in Order No. 6363 is consistent with the Commission’s elaboration on the current accepted analytical principles related to retiree health benefit normal costs discussed in Section IV.A., *supra*. Thus, the Mailers’ view that FY 2022 retiree health benefit normal costs should be treated as accrued in FY 2022 and attributed to specific products (despite the fact there are no accounting costs in FY 2022) reflects a change in accepted analytical principles. As referenced in Order No. 6363, the Commission’s regulations set forth a process for changing analytical principles, stating that “any interested person, including the Postal Service or a public representative, may submit a petition to the Commission to initiate [a proceeding

to change an accepted analytical principle].” 39 CFR 3050.11(a); *see* 39 U.S.C. 3652(e)(2). Because it is the Mailers who desire a change in the accepted analytical principles, the Commission’s regulations and Order No. 6363 appropriately placed the burden to petition and advocate for such a change on the Mailers. In circumstances where it is the Postal Service that desires a change in the accepted analytical principles, the burden is on the Postal Service to propose and advocate for such a change.²⁴

C. Other Arguments Raised by the Mailers

The Mailers raise two other arguments that the Commission finds important to address at this juncture. First, Mailers assert that failing to accrue and attribute retiree health benefit normal costs has “real world negative consequences.” Mailers’ Motion and Petition at 8. Specifically, the Mailers argue that failing to attribute these costs violates the cost causation principles contained in the PAEA and would result in erroneous cost avoidances for workshare discounts, which would result in less efficient workshare discounts. *Id.* at 8-9. The Mailers point to workshare discounts in the FY 2022 ACR as demonstrating this issue. Mailers’ Reply Comments at 3-5. PSA raises similar arguments. PSA Response at 1-3.

The Commission notes that even if one were to accept the Mailers’ analysis as true, it would not change what the accepted analytical principles currently are (as described in Section IV.A., *supra*) and thus does not influence the Commission’s conclusions related to the Mailers’ request for reconsideration of Order No. 6363. Instead, this argument relates to whether the current

²⁴ *See, e.g.*, Order No. 6363 at 10-11; Docket No. RM2023-2, Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal Seven), December 12, 2022.

accepted analytical principles should be changed and how they may, from the Mailers' perspective, be improved. In accordance with 39 U.S.C. 3654(e), accepted analytical principles may be changed "to improve the quality, accuracy, or completeness of Postal Service data . . . whenever it shall appear that—(1) the data have become significantly inaccurate or can be significantly improved; or (2) those revisions are, in the judgment of the Commission, otherwise necessitated by the public interest." 39 U.S.C. 3654(e). Because the Commission will consider whether to adopt NPPC et al. Proposal One as new accepted analytical principles, the Commission plans to consider the Mailers' arguments that their approach better aligns with the PAEA and will result in more accurate costing for workshare discounts in conjunction with its consideration of NPPC et al. Proposal One. See Section V., *infra*.

Second, the Mailers, PSA, and the Postal Service have significant disagreement over how the PSRA affected whether retiree health benefit normal costs should be accrued and attributed in FY 2022.²⁵ Specifically, the Mailers argue that the PSRA had no effect on economic costs related to retiree health benefit normal costs, and because those costs still exist, they should continue to be attributed as they have been in the past. Mailers' Motion and Petition at 11-12; Mailers' Reply Comments at 2-3.

There is no dispute that the economic costs of retiree health benefit normal costs exist in FY 2022 as they have in prior years. However, as explained in Section IV.A., the PSRA changed whether there were any retiree health benefit accounting costs due and payable in FY 2022. Due to the PSRA, there were zero accounting costs related to retiree health benefits in FY 2022,

²⁵ Mailers' Motion and Petition at 11-12; PSA Response at 1-3; Postal Service Response at 7-12; Mailers' Reply Comments at 2-3.

and under the current accepted analytical principles, with no accounting costs incurred in FY 2022, there is no basis for attributing retiree health benefit normal costs in FY 2022. See Section IV.A., *supra*.

D. Conclusion

The primary basis of the Mailers' request for reconsideration of Order No. 6363 is that the Commission erred in determining that the current accepted analytical principles do not require retiree health benefit normal costs to be treated as accrued and attributed to products in FY 2022. Mailers' Motion and Petition at 1. As discussed in Order No. 6363 and Section IV.A., *supra*, the Commission finds that the Mailers' view of the current accepted analytical principles is incorrect. Thus, the Commission denies the Mailers' Motion and Petition with regard to the request for reconsideration of Order No. 6363.

In the alternative to granting reconsideration in their favor, the Mailers request that the Commission initiate a rulemaking proceeding and determine in that proceeding that retiree health benefit normal costs should be treated as accrued and attributed to products in Docket No. ACR2022 (which will culminate in the FY 2022 ACD). The Commission grants the request to consider the Mailers' petition to change the analytical principles applied to the FY 2022 retiree health benefit normal costs and provides notice of the proposed rulemaking in Section V., *infra*.

V. Notice of Proposed Rulemaking on Analytical Principles Used in Periodic Reporting (NPPC ET AL. Proposal One)

A. NPPC et al. Proposal One

On December 19, 2022, the Mailers requested that the Commission initiate a rulemaking proceeding to consider a change in analytical principles if the Commission denied their motion for reconsideration. See Mailers' Motion and Petition at 2. The Commission has designated the proposed change in

analytical principles as NPPC et al. Proposal One. Order No. 6382 at 2 n.2.

NPPC et al. Proposal One proposes that FY 2022 retiree health benefit normal costs be treated as accrued in FY 2022 and attributed to specific products to the same “degree as composite labor costs.” Mailers’ Motion and Petition at 1, 5, 13.

The Mailers assert that treating retiree health benefit normal costs as accrued each year and attributing them would improve the quality, accuracy, and completeness of the data in the Postal Service’s periodic reports when compared to the current analytical principles. *Id.* at 16. The Mailers further assert that accruing and attributing retiree health benefit normal costs in the year in which they are earned “is consistent with economic cost accounting” as these normal costs “are a component of the economic cost of postal work.” *Id.* The Mailers claim that from a practical perspective, NPPC et al. Proposal One is preferable because excluding retiree health benefit normal costs would result in inaccurate cost avoidance estimates, which would, in turn, result in inaccurate compliance determinations with respect to workshare discounts. *Id.* at 16-17. The Mailers assert that this harm would not just occur in FY 2022, but would result in future distortions in workshare discounts even if the treatment of normal costs changed in the future. *Id.* at 17. The Mailers also state that “the categorical exclusion of select costs would also erode the accuracy of the Commission’s compliance findings with respect to . . . competitive products.” *Id.*

The Mailers state the NPPC et al. Proposal One “is fully consistent with the legal standard that attributable costs are ‘the direct and indirect postal costs attributable to each class or type of mail service through reliably identified causal relationships.’” *Id.* (quoting 39 U.S.C. 3622(c)(2)). They assert that “[e]arned [retiree health benefit] costs plainly satisfy that standard, and attributing them improves the quality of postal accounting by making it more consistent with

statutory requirements.” *Id.* The Mailers state that according to the Postal Service’s FY 2022 10-K, retiree health benefit normal costs were \$4.4 billion in FY 2022, and that “proper treatment of these costs would increase attributable costs by approximately \$2.6 billion . . . consistent with attribution levels in recent years.” *Id.* The Mailers represent that nothing in NPPC et al. Proposal One would affect how those costs are currently attributed to particular classes and products. *Id.* at 18.

B. Notice and Comment

The Commission will use Docket No. RM2023-3 for consideration of matters raised by NPPC et al. Proposal One. More information on NPPC et al. Proposal One may be accessed via the Commission’s website at <http://www.prc.gov>. Interested persons may submit comments on NPPC et al. Proposal One no later than February 8, 2023.²⁶ Comments should be filed in Docket No. RM2023-3. Pursuant to 39 U.S.C. 505, Jennaca D. Upperman is designated as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

VI. Ordering Paragraphs

It is ordered:

1. The Motion for Reconsideration or, in the Alternative, Petition to Initiate a Proceeding Regarding the Appropriate Analytical Principle for Retiree Health Benefit Normal Costs, filed December 19, 2022, is denied with regard to the request for reconsideration of Order No. 6363 consistent with the body of this Order.

²⁶ This comment deadline is set consistently with the 2-week deadline envisioned in Order No. 6363. Order No. 6363 at 11, n.17.

2. The Commission will use Docket No. RM2023-3 for consideration of the matters raised by NPPC et al. Proposal One, as described in the Motion for Reconsideration or, in the Alternative, Petition to Initiate a Proceeding Regarding the Appropriate Analytical Principle for Retiree Health Benefit Normal Costs, filed December 19, 2022.

3. Comments by interested persons on NPPC et al. Proposal One are due no later than February 8, 2023 and should be filed in Docket No. RM2023-3.

4. Pursuant to 39 U.S.C. 505, the Commission appoints Jennaca D. Upperman to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this docket.

5. The Secretary shall arrange for publication of this Order in the **Federal Register**.

By the Commission.

Erica A. Barker,

Secretary.

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